



Los Angeles County  
Department of Regional Planning  
*Planning for the Challenges Ahead*



February 9, 2006

James E. Hartl AICP  
Director of Planning

TO: Pat Modugno, Chair  
Esther L. Valadez, Vice Chair  
Leslie G. Bellamy, Commissioner  
Harold V. Helsley, Commissioner  
Wayne Rew, Commissioner

FROM: Julie Moore, AICP, Head  
Housing Section

**SUBJECT: UPDATE ON DENSITY BONUSES  
FEBRUARY 15, 2006 MEETING—AGENDA ITEM # 8**

**SUMMARY**

At your meeting on February 15, 2006, we will discuss the conceptual framework for the revised draft density bonus ordinance and the key ordinance provisions, included in **Attachment 1**, which we hope to use in finalizing the ordinance. We would like for you to comment on and endorse the overall approach to the ordinance and the key provisions so that we may bring the revised ordinance back for your consideration and approval in March.

The changes that are proposed to the draft ordinance are described herein, including the Menu of Incentives that is provided in the conceptual framework document found in Attachment 1. The proposed changes respond to the concerns expressed by you at your meeting on October 26, 2005, and to the input received from multiple sources, including the Housing Advisory Committee, Community Development Commission (CDC) staff, the Board deputies, our County Counsel, and members of the public, and also adheres to the requirements of State density bonus law as set forth in Section 65915 of the California Government Code, included for your reference as **Attachment 2**.

**BACKGROUND**

In October, the Commission instructed the staff to return with a revised draft of the density bonus ordinance that incorporates the staff's recommendations for responding to the issues and concerns raised at the June 22, 2005 public hearing. In addition, due to the concerns expressed by some of the Board offices regarding the staff's interpretation of key provisions of the State

density bonus law, the Commission instructed County Counsel to clarify what the County is required to do under the new provisions of the State density bonus law.

To respond to the Commission's request, on November 16, 2005, County Counsel convened a meeting of the Board deputies, CDC staff, and the planning staff, to clarify what the State law mandates the County to do pursuant to Section 65915 of the California Government Code. Prior to the meeting, the staff provided the Board deputies with a memo, included as **Attachment 3**, that relates the goals of the draft density bonus ordinance back to addressing the housing crisis in Los Angeles County, as well as to other recent County-sponsored efforts and initiatives to address housing and homelessness.

At the meeting, the staff presented the Board deputies with a Countywide map that illustrates, by Supervisorial District, the geographic location of density bonus project approvals and pending cases in the last five years. While the map and reference tables, included as **Attachment 4**, illustrate that there is at least one approved or pending density bonus case in each Supervisorial District, it also demonstrates that a majority of density bonus cases have been occurring in the First and Second Supervisorial Districts. The staff also presented a draft "menu" of incentives, and led a discussion on creating meaningful, yet reasonable incentives. Based on the input of the Board deputies and the Commission, the draft menu was revised.

## **HIGHLIGHTS OF ORDINANCE CONCEPTS**

The following is an update of new concepts, including changes and additions that we had recommended to you on June 22, 2005:

### **I. More options and flexibility in granting density bonuses**

We would like to provide more options for density bonuses by creating two types of housing permits: An "administrative housing permit," which covers the provisions not subject to a discretionary review, as described in the State density bonus law, as well as special provisions for the County's Infill Sites Program; and a "discretionary housing permit," which would allow various density bonus options through a public hearing. The purpose of introducing a discretionary housing permit is to consider requests for additional density bonuses and incentives that may not meet the required "findings" for approval as described in the State density bonus law, but may provide benefits to the community in other ways.

- **Administrative housing permit**

Qualified housing developments that require an administrative housing permit would go through a ministerial review, and would not be subject to CEQA requirements unless the zone or use requires some additional type of discretionary permit. However, a CEQA-like review would be completed by the staff to determine if the proposal would have an adverse impact to public

health and safety, the physical environment, or to historic resources. In addition to the provisions described in the State density bonus law, the administrative housing permit would also apply to density bonus and incentives provisions for projects of four units or less that participate in the County's Infill Sites Program.

- Discretionary housing permit

Section 65915(n) of the Government Code enables the County to adopt an ordinance that allows for greater density bonuses and incentives than the minimum provided in the basic mandate. The staff recommends that additional bonuses and modifications to development standards be considered through a discretionary review procedure. The ordinance proposes a discretionary housing permit that would be subject to a public hearing and review by the Commission. A housing development that requires a discretionary review is subject to CEQA. The staff proposes two new options for requesting a density bonus through a discretionary review:

#### *Senior Citizen Housing Option*

The State density bonus law caps the by-right density bonus for the provision of a market-rate senior citizen housing development or age-restricted mobile home park to 20%. The "senior citizen housing option" is proposed to provide applicants of market-rate senior citizen housing developments, that are a substantial component of a larger housing development, the option to request up to a 50% density bonus through a discretionary review. In order to qualify, the applicant would be required to set-aside 50% or more of the total units in the overall housing development within a "senior citizen housing development," as defined in Sections 51.3 and 51.12 in the California Civil Code. The staff recommends this option, which would maintain a senior housing density bonus option that is similar to what is currently offered in the Zoning Code.

#### *Affordable Housing Option*

The State density bonus law grants a by-right density bonus that increases on a sliding scale, up to 35%, to housing developments that include a housing set-aside for very low, lower or moderate income households. In addition, the State density bonus law grants incentives on a sliding scale, up to three, for housing developments that meet those same eligibility requirements. One possible incentive that an applicant could request is an increase in the by-right density bonus by a percentage that helps off-set the cost of maintaining the affordability of the housing set-asides, while not creating an adverse impact on public health and safety, the physical environment, or to historic resources. The "affordable housing option" is proposed to provide applicants of housing developments that meet the eligibility requirements of the State density bonus law for housing set-asides, but may not have an additional incentive available to request a higher bonus, or requires an incentive that does not contribute to maintaining the affordability of the housing set-asides, the option of requesting an increase in the by-right density bonus through a discretionary review.

Projects that opt for the affordable housing option may be ineligible for approval through an administrative housing permit if the project could reasonably have a potential adverse impact on public health and safety, the physical environment, or to historic resources, but the project may be a project worthy of the County's consideration through a discretionary procedure which could consider broader social and economic factors.

## **II. A meaningful “menu” of incentives**

The menu of incentives, included in Attachment 1, is intended to encourage applicants to design their projects to incorporate the incentives that the County is comfortable with granting by-right. The menu would provide developers with certainty by providing a list of reasonable incentives that are deemed acceptable by the County; however, the on-menu incentives are still subject to the review procedures required by the State density bonus law to determine the incentive's ability to off-set the cost of maintaining the affordability of the housing set-asides, while not creating an adverse impact on public health and safety, the physical environment, or to historic resources. The menu is designed to discourage development in areas not suitable for development. The menu of incentives contains the following:

- **Yards**

*Up to a 20% modification of side yard/setback requirements. Up to a 35% modification of front or rear yard/setback requirements. Each modification counts as one incentive.*

For the typical minimum side yard setback requirement in the unincorporated area, which is five feet, a 20% modification results in a four-foot setback. For the typical minimum front yard setback requirement in the unincorporated area, which is 20 feet, a 35% modification results in a 13-foot setback.

- **Height/Stories**

*Building Height: Up to a 10ft increase in height. For every additional foot in height above the maximum allowed in the basic zone, the portion of the building exceeding the basic height limit shall be set back an additional foot (and may be determined from a modified yard/setback) from adjoining residential properties, except that roof structures and architectural features may be allowed within the “step-back” portion up to 42 inches in height.*

*Stories: An additional story. The building height must conform to either the height requirements of the basic zone or as modified with the on-menu building height incentive.*

We chose 10 feet because it is the typical height needed for a full residential story, and because anything less than 10 feet would make the incentive meaningless. The setback requirements are

added to ensure the availability of light and air, and to discourage box-like buildings. The additional story incentive is added in cases where there is a story requirement.

- Parking

*For housing developments in which 100% of the units are set-aside for very low and lower income households and at or within a 1,500 ft. radius of an existing or major bus center, bus stop along a major bus route defined as bus route with a frequency of service interval of 15 minutes or less during the morning or afternoon peak commute periods, or a fully funded mass transit station, the following parking ratios shall apply:*

*Single-family Dwelling Units.*

*Any # of bedrooms: 1.0 parking spaces/unit*

*Multi-family Dwelling Units.*

*0 – 1 bedrooms: 0.75 parking space/unit*

*2 or more bedrooms: 1.5 parking space/unit*

As discussed in detail at your October 26, 2005 meeting, there is a proven relationship between income, proximity to transit and vehicle ownership. To address and better plan for this relationship, we have provided on-menu parking incentives for developments in proximity to accessible public transportation. The parking incentive is a further reduction from what the State density bonus law already makes available by-right.

As a typical single family home requires two covered standard parking spaces, with the parking incentive, the project would be required to provide only one covered or uncovered standard parking space. In the case of a 50-unit apartment building, consisting of two or more bedrooms, the development would be required to provide 75 covered, uncovered or tandem standard parking spaces, inclusive of guest and accessible parking spaces. Without the parking incentive, the same 50-unit apartment building would be required to provide 75 covered standard spaces, 13 guest spaces, and 25 uncovered spaces, for a total of 113 parking spaces. The single-family scenario amounts to a 50% parking reduction, while the multi-family scenario amounts to a 66% parking reduction.

- Required area

*Lot size: Up to 20% modification from lot size requirements. Up to 35% modification from lot size requirements for housing developments in which 100% of the units are set-aside for very low or lower income households.*

For the typical minimum lot size requirement in the unincorporated area, which is 5000 sq. ft., a 20% modification results in a lot size of 4,000 sq. ft. A 35% modification for 100% affordable developments, which tend to be smaller, according to CDC staff, results in a lot size of 3,250 sq. ft.

*Lot width: Up to 20% modification from lot width requirements. Up to 35% modification from lot width requirements for housing developments in which 100% of the units are set-aside for very low or lower income households.*

For the typical minimum lot width requirement in the unincorporated area, which is 50 feet, a 20% modification results in a lot width of 40 feet. A 35% modification for 100% affordable developments, which, again according to CDC staff, tend to be smaller, results in a lot width of 32.5 feet.

The Commission should note that eligible density bonus projects that select modifications to lot size and/or lot width as on-menu incentives are not exempt from the subdivision process.

- Density

*For housing developments in which 100% of the units are set-aside for very low or lower income households, an additional 15% increase in the maximum density bonus.*

As the maximum density bonus set forth by the State density bonus law is 35%, projects that are 100 percent affordable to very low and lower income households (in their entirety), would receive a density bonus of 50% total. For example, a project in an area zoned R-3, in which the project is allowed 30 du/acre, with the on-menu incentive, is entitled to a density of 45 du/acre. A project in an area zoned R-4, in which the project is allowed 50 du/acre, with the on-menu incentive, is entitled to a density of 75 du/acre.

### **III. Off-menu incentives – The difference is the appeals/call-for-review procedure**

To be consistent with the State density bonus law, the staff proposes granting off-menu incentives through an administrative housing permit. Like on-menu incentives, off-menu incentives are subject to the same review procedures required by the State density bonus law to determine the incentive's ability to off-set the cost of maintaining the affordability of the housing set-asides, while not creating an adverse impact on public health and safety, the physical environment, or to historic resources. The main procedural difference between on-menu and off-menu incentives is the appeals procedure. In the event of an appeal, in both cases, the decision of the Commission is final. In addition, reasons for appeals are limited, once again, to the incentive's ability to off-set the cost of maintaining the affordability of the housing set-asides, while not creating an adverse impact on public health and safety, the physical environment, or to historic resources.

The following describes the differences between the appeal procedures for administrative housing permits with on-menu incentives as compared to administrative housing permits with off-menu incentives:

- **On-Menu Incentives**

In the case of an administrative housing permit for a project that requests an on-menu incentive, an appeal may be made by the applicant to the Commission within 15 days of receipt of notification of the director's decision by the applicant.

- **Off-Menu Incentives**

In the case of an administrative housing permit for a project that requests an off-menu incentive, an appeal may be made by the applicant and/or the decision of the director may be called up for review by the Commission within 15 days of receipt of notification of the director's decision by the applicant. In addition, a notice of decision is sent to the adjacent neighbors, the local town council, and/or similar local community association(s). Decisions on appeals or calls for review must be made within 90 days of the end of the appeal period. The Commission should note that in the case of an off-menu incentive, the right of appeal is limited to the applicant, and the Commission has the authority to call up the case for review. However, in both cases, no public hearing is conducted.

#### **IV. Infill Sites Program density bonus and incentives**

The staff has recommended density bonus provisions and incentives for projects that participate in the County's Infill Sites Program, which accommodates projects of four units or less and, therefore, is not covered under the basic provisions of the State density bonus law. The density bonus and listed incentives are described in the conceptual framework in Attachment 1, and are based on input received from the CDC staff. The incentives, in particular, for participating projects are designed to be generous, as the projects are guaranteed to be affordable and can also be controlled through funding. The staff recommends that all participating projects that utilize the density bonus and/or listed incentives be subject to the procedures for an "on-menu" administrative housing permit. A participating project that requests additional incentives (up to three) would be subject to the procedures for an "off-menu" administrative housing permit.

Additionally, we recommend a density bonus of one additional unit for participating projects of two or three units. The density bonus was limited to projects of two or three units in order to reflect reasonable increases that are closest to the 35% maximum density bonus provided in the state density bonus law for projects of five units or greater. An additional unit for a two-unit project yields a 50% density bonus, and an additional unit for a three-unit project yields a 33% density bonus.

Furthermore, we recommend a list of incentives for which all participating projects are eligible. The list is similar to the menu of incentives for density bonus projects of five units or more. However, the incentives cater specifically to affordable homeownership projects, which the Infill Sites Program strongly encourages. The following incentives apply to participating projects:

- Yards

*Up to a 20% modification of side yard/setback requirements. Up to a 35% modification of front or rear yard/setback requirements. Up to a 100% reduction in yard/setback requirements where common-walls are at or intersect common/shared lot lines within the project site (to encourage for-sale units through paired housing or townhome development) .*

For the typical minimum side yard setback requirement in the unincorporated area, which is five feet, a 20% modification results in a four-foot setback. For the typical minimum front yard setback requirement in the unincorporated area, which is 20 feet, a 35% modification results in a 13-foot setback.

This provision allows common-wall development by allowing zero setbacks between units. This incentive is useful for Infill Sites Program projects that are trying to maximize space for smaller lot sizes.

- Height/Stories

*Building Height: Up to a 10-foot increase in height. For every additional foot in height above the maximum allowed in the basic zone, the portion of the building exceeding the basic height limit shall be setback an additional foot (and may be determined from a modified yard/setback) from adjoining residential properties, except that roof structures and architectural features may be allowed within the “step-back” portion up to 42 inches in height.*

*Stories: An additional story. The building height must conform to either the height requirements of the basic zone or as modified through the building height incentive.*

The building height and stories incentives are the same as the ones given on the menu of incentives for larger housing developments. The 10-foot increase is based on the typical height needed for a full residential story. Similar to the on-menu building height incentive, the step-back requirement is added for light, air and design considerations.

- Required area

*Lot size. Up to 50% modification from lot size requirements.*

For the typical minimum lot size requirement in the unincorporated area, which is 5,000 sq. ft., a 50% modification results in a lot size of 2,500 sq. ft.

*Lot width. Up to 50% modification from lot width requirements.*

For the typical minimum lot width requirement in the unincorporated area, which is 50 feet, a 50% modification results in a lot width of 25 feet.



■ Parking

*For housing developments at or within a 1,500 ft. radius of an existing or major bus center, bus stop along a major bus route defined as bus route with a frequency of service interval of 15 minutes or less during the morning or afternoon peak commute periods, or a fully funded mass transit station, the following parking ratios shall apply:*

*Single-family Dwelling Unit.*

- Any # of bedrooms: 1.0 parking spaces/unit

*Multi-family Dwelling Unit.*

- 0 – 3 bedrooms: 1.0 parking space/unit
- 4 or more bedrooms: 1.5 parking space/unit

Similar to the on-menu parking incentives for developments in proximity to accessible public transportation, participating projects are eligible for parking incentives.

A single-family residence, for example, would be required to provide one covered or uncovered parking space instead of two covered spaces, a 50% reduction. A three-unit development, with four or more bedroom units, would require five parking spaces, covered, uncovered or tandem, instead of six parking spaces (five covered parking spaces and one uncovered spaces), which would be a 17% parking reduction.

## **V. Procedure for granting waivers or modifications of development standards**

The staff recommends that requests for waivers or modifications to development standards, as described in the State density bonus law, be subject to the procedures for a discretionary housing permit. Unlike the granting of density bonuses and/or incentives, the State density bonus law does not require that the granting of waivers or modifications of development standards be subject to a non-discretionary review. In addition, unlike the case of granting density bonuses and/or incentives, the burden of proof is on the applicant to prove that the waiver or modification contributes to the economic feasibility of the project. The Commission should note, however, that the discretionary review for waivers or modifications of development standards is limited in scope by the State density bonus law to whether or not the applicant has met the burden of proof, and whether or not the waiver or modification will have an adverse impact on public health and safety, the physical environment, or to historic resources.

## **VI. Transfer of density bonus and/or incentives**

The staff recommends maintaining the option to transfer the density bonus and/or incentives, which is currently allowed under the existing density bonus provisions in Title 22 (Section 22.56.202). Requests for the transfers would be subject to the procedures for a discretionary

housing permit, with the exception of requests made by projects participating in the County's Infill Sites Program, which would be subject to the procedures for an administrative housing permit.

## **VII. Fees and deposits**

- **Housing Permit Fees:**

*Housing Permit, Administrative, for Density Bonuses and On-Menu Incentives — \$ 881.*

*Housing Permit, Administrative, for Density Bonuses and Off-Menu Incentives or Concessions — \$ 1,270.*

*Housing Permit, Discretionary — \$ 3,035.*

*Fee waiver for for-profit developer of 100% affordable housing. (Note: There is an existing fee waiver provision for a non-profit developer of affordable housing that is more generous than the one proposed for for-profit developers).*

- CDC Evaluation Fee (deposit, from which actual costs are billed)
- CDC Monitoring Fee

## **VIII. Monitoring and Enforcement**

The staff recommends that the monitoring of both affordable housing and senior citizen housing set-asides be administered by the CDC. As the CDC has the capacity and mechanism for monitoring affordability and other restrictions already in place, they are the appropriate agency for assuming the responsibility for this role. When a qualifying project is approved, the property owner would be required to sign an affidavit of acceptance, deposit fees for annual monitoring, and record a covenant and agreement that guarantees that the units will maintain the appropriate restrictions for the required duration. In addition, the applicant would be required to register/certify their housing set-aside(s) with the CDC on an annual basis. In the event of non-compliance, the Department of Regional Planning will work with the CDC to enforce the permit requirements and may subject the property owner to the standard non-compliance procedures described in Part 6 (Enforcement) of Chapter 22.60 of the Zoning Code.

## ENVIRONMENTAL DOCUMENTATION

An Initial Study was prepared for the density bonus ordinance, in compliance with the California Environmental Quality Act (CEQA) and the Environmental Document Reporting Procedures and Guidelines of the County of Los Angeles. The Initial Study shows that there is no substantial evidence that the ordinance would have a significant effect on the environment. Based on the Initial Study, the Department of Regional Planning prepared a Negative Declaration for the density bonus ordinance.

This comprehensive amendment to the density bonus provisions of the County Zoning Code (Titles 21 and 22 of the Los Angeles County Code) is in conformance with the density bonus and affordable housing incentives requirements mandated by the State of California, as contained in Section 65915 of the California Government Code. The staff has considered information that estimates the average annual total units generated through projects incorporating density bonuses, over the period 2005-2025, would potentially range from 75 units/year (status quo), 150 units/year (moderate growth), or 300 units/year (higher growth) under a reasonable range of growth scenarios. The year 2025 is used in the analysis because it represents the horizon year for the General Plan Update.

The staff estimates that approximately one-third of the units (or 25/50/100 units, respectively) will result directly from density bonuses. These projected units would be dispersed over the 2,584 square miles of the unincorporated area, but would be located primarily within the existing urban area in proximity to existing urban infrastructure and employment opportunities. This compares to the annual average, from 1998-2004, of 2,980 units/year, and the increase in units through density bonus projects may represent an estimated 10 percent or less of total permitted units. It should be noted that the increase in units through density bonuses is tied to the provision of affordable housing units, which contribute positively to enhancing the environment through the reduction in blight and substandard physical conditions within the unincorporated area. Therefore, based on this analysis, the staff concludes the proposed amendment would not result in a substantial change in the environment. It is anticipated that individual projects will undergo appropriate environmental evaluation or environmental review as they are proposed.

## ADDITIONAL COMMENT LETTERS

Additional public comments were received after the close of the public hearing in June 2006. Several of the letters, which came from public agencies (SCAG, Sheriff's Department, Fire Department), are included for your consideration in **Attachment 5**. The issues raised in the comment letters include "no comments at this time" (SCAG), minimal comments regarding future reviews (Fire Department), support (AMCAL), concern and request to review every new density bonus project (Sheriff). Regarding the Sheriff's Department's request to have the opportunity to be involved in the review/approval process for every new project that qualifies under the proposed revision to the density bonus ordinance, we feel that it would only be

appropriate to consult with the Sheriff's Department in cases where discretion may be applied, such as when a conditional use permit, coastal development permit, zone change, or other discretionary approval is required.

## **RECOMMENDATION**

We recommend that the Commission endorse and provide comments on the aforementioned key ordinance concepts and the overall ordinance framework, and instruct the planning staff to complete the revised draft ordinance with any additional changes that the Commission deems appropriate.

### Recommended Motion:

*I move that the Regional Planning Commission instruct the staff to prepare the revised draft ordinance for density bonuses and affordable housing incentives, including the changes discussed at today's meeting, for consideration by the Commission at a future meeting.*

Should you have any questions, please contact me or Connie Chung at (213) 974-6425 or [jmoore@planning.co.la.ca.us](mailto:jmoore@planning.co.la.ca.us).

JTM:cc

### Attachments:

1. Proposed Density Bonus Ordinance – Conceptual Framework
2. Section 65915 of the California Government Code, effective January 1, 2006
3. Memo to Board deputies regarding density bonuses, November 15, 2005
4. Map illustrating the location of density bonus approvals by Supervisorial District
5. Additional Public Comment Letters